

**REMARKS**

Applicant requests favorable reconsideration of this application in view of the foregoing amendments and the following remarks. Of claims 1, 2, 8-17, and 23-26 that were pending in the application, only claim 17 was rejected in the Office Action. Applicants greatly appreciate the allowance of claims 1, 2, 8-16, and 23-26. Applicant has amended pending claim 17 and withdrawn claim 18. Claims 1, 2, 8-17, and 23-26 remain pending.

**1. Rejection of Claim 17**

The Examiner rejected claim 17 under 35 U.S.C. § 103(a) as allegedly being obvious when considering U.S. Patent No. 5,726,353 (“Matsuda”) in view of U.S. Patent No. 4,324,320 (“Spurlin”). For at least the following reasons, Applicant respectfully traverses this rejection.

As amended herein, claim 17 recites a hydraulic control system for an automatic transmission with a wet clutch serving as a start element and points to be lubricated. The hydraulic control system includes, among other possible things (italic emphasis added):

- a lubrication passage which feeds a lubricating oil to the wet clutch and the points of the transmission;
- a switching valve which switches fluid communication to the wet clutch and the points of the transmission;
- a distribution controller which controls the switching valve;
- a cooler arranged on the lubrication passage, the cooler cooling down the lubricating oil;
- a pressure regulator valve arranged on the lubrication passage upstream of the cooler, the pressure regulator valve regulating a pressure of the lubricating oil;
- a pressure controller which controls the pressure regulator valve; and
- an electronic control unit (ECU) which determines a temperature of the lubricating oil and controls the distribution controller and the pressure controller in accordance with the determined temperature.*

As hereafter explained, the combination of Matsuda and Spurlin fails to teach or suggest such a hydraulic control system.

In rejecting claim 17, the Examiner admits that Matsuda fails to teach or suggest the oil cooler recited therein. *See* Office Action at pp. 2-3. However, with respect to claim 17 as amended herein, Matsuda is also deficient for at least two additional reasons.

First, the Examiner analogizes Matsuda’s controller 218, electromagnetic solenoid 214sl, and electromagnetic solenoid 316sl to the ECU, distribution controller, and pressure controller, respectively, recited in claim 17. Moreover, the Examiner asserts that Matsuda’s ECU (*i.e.*, controller 218) controls both the distribution controller (*i.e.* electromagnetic

solenoid 214sl) and the pressure controller (*i.e.* electromagnetic solenoid 316sl). Applicant respectfully disagrees. Although Matsuda's ECU (*i.e.*, controller 218) controls the distribution controller (*i.e.* electromagnetic solenoid 214sl) (*see, e.g.*, col. 5, lines 57-60), Matsuda fails to teach or suggest that the ECU (*i.e.*, controller 218) also controls the pressure controller (*i.e.* electromagnetic solenoid 316sl). Second, even assuming, *arguendo*, that Matsuda's ECU (*i.e.*, controller 218) did control both the distribution controller (*i.e.* electromagnetic solenoid 214sl) and the pressure controller (*i.e.* electromagnetic solenoid 316sl), Matsuda fails to teach or suggest that the ECU controls the distribution and pressure controllers in "accordance with the determined temperature" of the lubricating oil, as above-italicized in claim 17. Accordingly, Matsuda is deficient with respect to claim 17 for at least these two reasons. Moreover, as hereafter explained, Spurlin can not be used to cure these deficiencies of Matsuda.

Even assuming, *arguendo*, that Spurlin's cooler 164 were properly analogous to the oil cooler recited in claim 17, Spurlin fails to teach or suggest an ECU that controls both a pressure controller and a distribution controller in "accordance with the determined temperature" of a lubricating oil. As a result, Spurlin fails to cure the aforementioned deficiencies of Matsuda.

In light of the foregoing, it is clear that the combination of Matsuda and Spurlin fails to teach or suggest at least the above-italicized limitations of claim 17. Accordingly, the combination of Matsuda and Spurlin can not be used to reject claim 17 under 35 U.S.C. § 103(a). Therefore, a withdrawal of the rejection of claim 17 is both warranted and respectfully requested.

## **2. Withdrawn Claims 3-7 and 18-22**

As each of withdrawn claims 3-7 depends from allowed claim 1, each of these dependent claims is also allowable, without regard to the other patentable limitations recited therein. In addition, as withdrawn independent claim 18 has been amended to recite each of the limitations of allowed claim 1, claim 18 and its dependent claims 19-22 are also in condition for allowance. Accordingly, when issuing a Notice of Allowance, the Examiner is requested, under 37 C.F.R. §§ 1.141(a) and 1.142(b) and M.P.E.P. § 809.03, to reenter and allow claims 3-7 and 18-22.

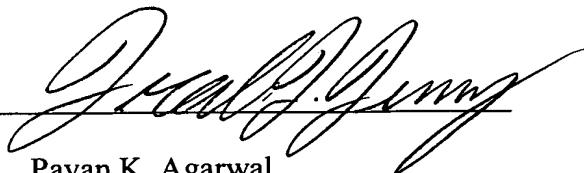
**CONCLUSION**

For the aforementioned reasons, claims 1-26 are now in condition for allowance. A Notice of Allowance at an early date is respectfully requested. The Examiner is invited to contact the undersigned if such communication would expedite the prosecution of the application.

Respectfully submitted,

Date \_\_\_\_\_  
June 15, 2006

By \_\_\_\_\_



Pavan K. Agarwal  
Registration No. 40,888

Frederic T. Tenney  
Registration No. 47,131

Attorneys for Applicant

Customer Number: 22428  
FOLEY & LARDNER LLP  
3000 K Street, N.W.  
Suite 500  
Washington, D.C. 20007-5143

Telephone: (202) 672-5300  
Facsimile: (202) 672-5399

THE COMMISSIONER IS HEREBY AUTHORIZED TO CHARGE ANY ADDITIONAL FEES WHICH MAY BE REQUIRED REGARDING THIS APPLICATION UNDER 37 C.F.R. §§ 1.16-1.17, OR CREDIT ANY OVERPAYMENT, TO DEPOSIT ACCOUNT NO. 19-0741. SHOULD NO PROPER PAYMENT BE ENCLOSED HEREWITH, AS BY A CHECK BEING IN THE WRONG AMOUNT, UNSIGNED, POST-DATED, OTHERWISE IMPROPER OR INFORMAL OR EVEN ENTIRELY MISSING, THE COMMISSIONER IS AUTHORIZED TO CHARGE THE UNPAID AMOUNT TO DEPOSIT ACCOUNT NO. 19-0741. IF ANY EXTENSIONS OF TIME ARE NEEDED FOR TIMELY ACCEPTANCE OF PAPERS SUBMITTED HEREWITH, APPLICANT HEREBY PETITIONS FOR SUCH EXTENSION UNDER 37 C.F.R. § 1.136 AND AUTHORIZES PAYMENT OF ANY SUCH EXTENSIONS FEES TO DEPOSIT ACCOUNT NO. 19-0741.